

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD D'AMICO,

Case No. 3:21-cv-00306-ART-CLB

Plaintiff,

ORDER

v.

PETER ALTHOUSEN, et al.,

Defendants.

This action began with a pro se civil-rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on December 28, 2021. (ECF No. 3). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 3, 7). A settlement was not reached at the mediation. (See ECF No. 10).

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. But even if this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act, the Nevada Department of Corrections will forward payments from the account of **DONALD D'AMICO #19095** to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits (in months that the account exceeds

1 \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of the Court
2 will send a copy of this order to the Finance Division of the Clerk's Office and to the
3 attention of **Chief of Inmate Services for the Nevada Department of Corrections**, P.O.
4 Box 7011, Carson City, NV 89702.

5 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
6 a copy of Plaintiff's complaint (ECF No. 4) on the Office of the Attorney General of the
7 State of Nevada by adding the Attorney General of the State of Nevada to the docket
8 sheet. This does not indicate acceptance of service.

9 5. Service must be perfected within ninety (90) days from the date of this order
10 pursuant to Fed. R. Civ. P. 4(m).

11 6. Subject to the findings of the screening order (ECF No. 3), within 21 days
12 of the date of entry of this order, the Attorney General's Office shall file a notice advising
13 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service;
14 (b) the names of the defendants for whom it does not accept service, and (c) the names
15 of the defendants for whom it is filing the last-known-address information under seal. As
16 to any of the named defendants for whom the Attorney General's Office cannot accept
17 service, the Office shall file, under seal, but shall not serve the inmate Plaintiff the last
18 known address(es) of those defendant(s) for whom it has such information. If the last
19 known address of the defendant(s) is a post office box, the Attorney General's Office shall
20 attempt to obtain and provide the last known physical address(es).

21 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
22 shall file a motion identifying the unserved defendant(s), requesting issuance of a
23 summons, and specifying a full name and address for the defendant(s). For the
24 defendant(s) as to which the Attorney General has not provided last-known-address
25 information, Plaintiff shall provide the full name and address for the defendant(s).

26 8. If the Attorney General accepts service of process for any named
27 defendant(s), such defendant(s) shall file and serve an answer or other response to the
28 complaint (ECF No. 4) within 60 days from the date of this order.

1 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
2 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
3 document submitted for consideration by the Court. If Plaintiff electronically files a
4 document with the Court's electronic-filing system, no certificate of service is required.
5 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
6 mails the document to the Court, Plaintiff shall include with the original document
7 submitted for filing a certificate stating the date that a true and correct copy of the
8 document was mailed to the defendants or counsel for the defendants. If counsel has
9 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
10 named in the notice of appearance, at the physical or electronic address stated therein.
11 The Court may disregard any document received by a district judge or magistrate judge
12 which has not been filed with the Clerk, and any document received by a district judge,
13 magistrate judge, or the Clerk which fails to include a certificate showing proper service
14 when required.

15 10. This case is no longer stayed.

16 11. Lynn Bigley, Esq. was appointed as pro bono counsel for Plaintiff for the
17 "limited purpose of representing Plaintiff at the early mediation conference." (ECF No. 5.)
18 The mediation took place on April 12, 2022, and a settlement was not reached. (ECF No.
19 9.) Plaintiff will now be appearing pro se and the Clerk shall correct the docket sheet to
20 reflect Plaintiff's pro se status. The Clerk shall send a copy of this order to both Plaintiff
21 and Lynn Bigley, Esq.

22 DATED THIS 13th day of April 2022

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25 UNITED STATES MAGISTRATE JUDGE
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